

State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
December 14, 2005

- ITEM: 10
- SUBJECT: Section 401 Water Quality Certification: KB Home, San Marcos Highlands Residential Project, County of San Diego. The Regional Board will consider issuance of a technically conditioned 401 certification for impacts from the discharge of fill material to Agua Hedionda Creek. (*Christopher Means*).
- PURPOSE: The Regional Board will consider the issuance of a technically conditioned Section 401 certification for impacts to Waters of the U.S. from the discharge of fill material to Agua Hedionda Creek.
- PUBLIC NOTICE: Notification that the Regional Board had received an application for Section 401 Water Quality Certification for the proposed project was posted on our website the week of January 6, 2003. Interested parties were notified that the item would be brought before the Regional Board via email on November 23, 2005. The Agenda notice for the December 14, 2005, Regional Board meeting also serves as the public notice for this item.
- DISCUSSION: On November 9, 2005, the San Diego Regional Water Quality Control Board held a public hearing in consideration of issuance of Clean Water Act Section 401 Water Quality Certification for the San Marcos Highlands residential development. Public testimony was provided by KB Home, various environmental groups, and interested members of the public.
- After close of the public comment portion of the November 9th hearing, the Regional Board decided to continue this item to consider the issues in more detail. Specifically, the Regional Board requested to be provided with the following information from the record on this project:
- a. The Environmental Impact Report (EIR) including the cumulative impacts analysis, and the Hydrology/Water Quality section of the EIR.
 - b. Details on the process for the removal of the man-made pond in Agua Hedionda Creek.

- c. A description of how the project would mitigate the water quality impacts resulting from the increase in impervious surface generated from the project.
- d. Information to assess the adequacy of the compensatory mitigation measures proposed in the certification to offset the loss of the ephemeral tributaries to Agua Hedionda Creek.

Supporting Document No.1 in today's agenda package summarizes the issues raised at the November 9th hearing and provides direction to the applicable sections in the supporting documents that address those issues.

The San Marcos Highlands project is located on 204 acres partly within the City of San Marcos and partly in unincorporated northwestern San Diego County. The site is bisected by Agua Hedionda Creek with its headwaters consisting of the main stem of the creek, a number of ephemeral drainages, and one intermittent tributary drainage. The project consists of the subdivision of 80-acres into 191 single-family lots, the extension of Los Posas Road, and a 1-acre active use park. Approximately 124.5 acres will be left as open space.

Construction of the project as proposed will result in unavoidable impacts to 5,588 linear feet of watercourse comprised of four ephemeral drainages and 24 linear feet of Agua Hedionda Creek, totaling approximately 0.74 acres of jurisdictional waters of the U.S. (of which 0.05 acres are delineated as wetland). Temporary impacts from construction would include an additional 0.06-acre of impact to jurisdictional waters of the U.S. The unavoidable permanent impacts to waters of the U.S. will be mitigated at a ratio of 3.3:1.

As proposed, mitigation will be accomplished by the onsite restoration of 2.4 acres of the main-stem of Agua Hedionda Creek. The historic onsite pond will be removed and restored to a functioning streambed thus restoring the natural hydrologic regime to the creek. The onsite creation of 0.05 acre of wetlands will ensure a "no net loss" of wetlands from the project. All mitigation areas will be protected in perpetuity by the recordation of a conservation easement.

An additional 2.3 acres of Agua Hedionda Creek (referred to as the "panhandle") had been originally proposed for mitigation purposes. It was determined, however, that existing utility easements precluded the area from being placed under a conservation easement. KB Home has agreed to conduct the enhancement work in the riparian area along this portion of the creek as originally proposed, but will not receive credit for mitigation.

The tentative certification requires water quality monitoring throughout the course of the project. During the construction phase of the project, the tentative certification requires KB Home to submit quarterly construction monitoring reports and requires the development and implementation of a sediment/siltation monitoring program. In post-construction, the certification requires KB Home to develop an implement a five-year receiving water quality monitoring program to assess changes water quality as a result of project implementation. The receiving water quality monitoring will occur concurrently with habitat/mitigation monitoring program.

To ensure long-term protection of water quality, the project will incorporate post construction structural treatment Best Management Practices including a vegetated extended detention basin, which will treat the 85th percentile 24-hour rainfall event and inlet filters at every catch basin onsite. The proposed stormwater management plan is consistent with the San Diego Municipal Stormwater Permit new development requirements.

KEY ISSUE:

Approval of this tentative Water Quality Certification and Waiver of Waste Discharge Requirements will mitigate for anticipated impacts to water quality and beneficial uses caused by the San Marcos highlands project. The proposed mitigation is reasonable and in line with other similar certifications issued in the Agua Hedionda Creek Watershed.

LEGAL CONCERNS: NONE**SUPPORTING DOCUMENTS:**December 14, 2005 Agenda Package

1. Summary of Supporting Documents 2, 3 and 4
2. Disc 1: Storm Water Management Plan for San Marcos Highlands
3. Disc 2: Original 1990 EIR, and 2001 Supplemental EIR
4. Disc 3: Habitat Mitigation and Monitoring Plan, Cumulative Impacts Analysis – Aquatic Resources, ACOE Alternatives Analysis
5. List of all technical documents contained in administrative record. (These documents will be available at the Board meeting should there be interest in their contents.)
6. November 30, 2005 letter from the project proponent detailing the conceptual pond removal process.

November 9, 2005 Agenda Package

1. Tentative Resolution No. R9-2005-0272
2. Tentative 401 Water Quality Certification (File No. 02C-144)
3. Project location Map
4. October 20, 2005 Updated Project Description and associated exhibits (prepared by PCR).

5. Comment letter on draft certification from Friends Hedionda Creek.
6. Comment letter on draft certification from Neighbors of San Marcos Highlands and the Endangered Habitats League.

RECOMMENDATION: Adoption of tentative Resolution No. R9-2005-0272, which would result in the issuance of a technically conditioned 401 certification for the San Marcos Highlands Project, is recommended.